



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2473

DATE SCANNED 10-11-11

SCANNER NO. 2

SCAN OPERATOR CMP

11092672382



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 12, 2011

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer
Acting Staff Director

FROM: Patricia Carmona *PC*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: *W* Jodi Winship/Sari Pickerall *SP*
Compliance Branch

SUBJECT: Reason to Believe Recommendation -
Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee that has failed to file 48-hour notices with the Commission for contributions of \$1,000.00 or more received from the close of books for the New Hampshire 12 Day Pre-General Report up to 48 hours before the November 2, 2010 General Election in accordance with 2 U.S.C. § 434(a)(6) and 11 CFR. § 104.5(f). The committee, Kuster for Congress, represents a candidate who lost the General Election. The committee is being referred for failing to file 48-hour notices for contributions totaling \$46,200.00.

A 48-hour notice is required to report all contributions of a \$1,000.00 or more, to any authorized committee of a candidate, including contributions from the candidate, loans from the candidate and other non-bank sources and endorsements or guarantees of loans from banks, as per, 11 CFR § 104.5(f).

We have attached an information sheet which includes the contributor name, date of receipt and amount of the contributions for which a 48-hour notice was not filed.

In accordance with the schedule of civil money penalties outlined within 11 CFR § 111.44, this committee should be assessed the civil money penalty so indicated.

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Recommendation

1. Find reason to believe that Kuster for Congress and Paul A. Burkett, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$5,610.00 be assessed.
2. Send the appropriate letter.

Attachment

11092672384

Contributions for Which a 48-Hour Notice Was Not Received

AF: 2473

Committee ID: C00462861

Committee Name: Kuster for Congress

Report Type: 30 Day Post-General Report (10/14/10 – 11/22/10)

48-Hour Reporting Period: 10/14/10 – 10/30/10

| CONTRIBUTOR | DATE | AMOUNT |
|---|------------|--------------------|
| LUTZ, CHRISTOPHER | 10/14/2010 | \$1,000.00 |
| BRIGGS, ELEANOR | 10/15/2010 | \$1,000.00 |
| IBEW | 10/15/2010 | \$5,000.00 |
| BURNS, DONALD | 10/16/2010 | \$1,200.00 |
| OLDCASTLE MATERIALS INC. PAC | 10/22/2010 | \$1,000.00 |
| PLANNED PARENTHOOD ACTION FUND | 10/22/2010 | \$4,000.00 |
| UAW-V-CAP (UAW VOLUNTARY COMMUNITY ACTION PROG) | 10/22/2010 | \$5,000.00 |
| BRUNER, SIMEON | 10/26/2010 | \$2,400.00 |
| IATSE POLITICAL ACTION FUND | 10/27/2010 | \$1,000.00 |
| MALCOLM, ELLEN R. | 10/27/2010 | \$1,000.00 |
| HART, JIM | 10/28/2010 | \$2,400.00 |
| DIANA DEGETTE FOR CONGRESS | 10/29/2010 | \$1,000.00 |
| PERATIS, KATHLEEN | 10/29/2010 | \$1,000.00 |
| VISION FOR AMERICA | 10/29/2010 | \$1,000.00 |
| COCA-COLA COMPANY NONPARTISAN COMMITTEE FOR GOOD GOVERNMENT | 10/30/2010 | \$2,000.00 |
| HALL, CRAIG | 10/30/2010 | \$2,400.00 |
| HALL, KATHRYN | 10/30/2010 | \$2,400.00 |
| JOBS, OPPORTUNITIES AND EDUCATION PAC | 10/30/2010 | \$1,000.00 |
| STETSON, JANE | 10/30/2010 | \$2,400.00 |
| TRANSPORT WORKERS UNION POLITICAL CONTRIBUTIONS CO. | 10/30/2010 | \$5,000.00 |
| WOMEN'S CAMPAIGN FORUM | 10/30/2010 | \$1,500.00 |
| WOMEN'S CAMPAIGN FORUM | 10/30/2010 | \$1,500.00 |
| TOTAL | | \$56,100.00 |

Proposed Civil Money Penalty: \$5,610.00 ((9 Notices Not Filed at \$110 each) + (10% of the Overall Contributions Not Filed))

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Federal Election Commission
Reason to Believe Circulation Report
48-Hour Notification Report

4/12/2011 8:48 AM

| AFS | Committee ID | Committee Name | State | Election | Candidate Name | Treasurer | Prev Violations | Notices Not Filed | LOA | Penalty |
|------|--------------|---------------------------|-------|----------|--------------------|-----------------|-----------------|-------------------|----------|---------|
| 2473 | C00462861 | KUSTER FOR CONGRESS, INC. | NH | GENERAL | KUSTER, ANN MCLANE | PAUL A. BURKETT | 0 | 9 | \$46,200 | \$5,610 |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reason To Believe Recommendation –) AF 2473
Failure to File 48-Hour Notices under the)
Administrative Fine Program - Kuster for)
Congress, Inc. and Paul A. Burkett,)
Treasurer)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 15, 2011, the Commission decided by a vote of 6-0 to take the following actions in AF 2473:

1. Find reason to believe that Kuster for Congress and Paul A. Burkett, Treasurer, violated 2 U.S.C. § 434(a)(6) and make a preliminary determination that a civil money penalty of \$5,610.00 be assessed.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 18, 2011
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

11092672387



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 18, 2011

Paul A. Burkett, in official capacity as Treasurer
Kuster for Congress, Inc.
P.O. Box 1498
Concord, NH 03302

C00462861
AF#: 2473

Dear Mr. Burkett:

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, *et seq.* ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Federal Election Commission ("FEC"), and the Secretary of State, as appropriate, of any contribution of \$1,000 or more, received by any authorized committee of the candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* These notification requirements are in addition to all other reporting requirements. 2 U.S.C. § 434(a). Our records indicate that Kuster for Congress, Inc. did not submit 48-Hour Notices for contributions of \$1,000 or more, received between October 14, 2010 and October 30, 2010, totaling \$46,200, as required by 2 U.S.C. § 434(a)(6)(A). Attachment 1.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On April 15, 2011, the FEC found that there is Reason to Believe ("RTB") that Kuster for Congress, Inc. and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file the 48-Hour Notices. Based on the FEC's schedule of civil money penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at the RTB stage is \$5,610. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 2. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. The amount of the civil money penalty is \$110 for each non-filed notice plus 10 percent of the dollar amount of the contributions not timely reported. The civil money penalty increases by 25 percent for each prior violation. Send your payment of \$5,610 within forty (40) days of the finding, or by May 25, 2011.

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At this juncture, the following courses of action are available to you:

1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or May 25, 2011. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not or submit a written response, the FEC will assume that the proceeding factual allegations are true and make a final determination that Kuster for Congress, Inc. and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

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Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.45.

3. If You Choose to Pay the Civil Money Penalty

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,


Cynthia L. Bauerly
Chair

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ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS

In accordance with the schedule of penalties at 11 C.F.R. § 111.44, the amount of your civil money penalty calculated at RTB is \$5,610 for the 2010 General Election 48-Hour Notification Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission
P.O. Box 979058
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox
FEC #979058
1005 Convention Plaza
Attn: Government Lockbox, SL-MO-C2GL
St. Louis, MO 63101

The remittance and your payment are due by May 25, 2011. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

PAYMENTS BY PERSONAL CHECK

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT

FOR: Kuster for Congress, Inc.

FEC ID#: C00462861

AF#: 2473

PAYMENT DUE DATE: May 25, 2011

PAYMENT AMOUNT DUE: \$5,610

11092672391

Contributions for Which a 48-Hour Notice Was Not Received**AF: 2473****Committee ID: C00462861****Committee Name: Kuster for Congress****Report Type: 30 Day Post-General Report (10/14/10 – 11/22/10)****48-Hour Reporting Period: 10/14/10 – 10/30/10**

| CONTRIBUTOR | DATE | AMOUNT |
|---|--------------|--------------------|
| LUTZ, CHRISTOPHER | 10/14/2010 | \$1,000.00 |
| BRIGGS, ELEANOR | 10/15/2010 | \$1,000.00 |
| IBEW | 10/15/2010 | \$5,000.00 |
| BURNS, DONALD | 10/16/2010 | \$1,200.00 |
| OLDCASTLE MATERIALS INC. PAC | 10/22/2010 | \$1,000.00 |
| PLANNED PARENTHOOD ACTION FUND | 10/22/2010 | \$4,000.00 |
| UAW-V-CAP (UAW VOLUNTARY COMMUNITY ACTION PROG) | 10/22/2010 | \$5,000.00 |
| BRUNER, SIMEON | 10/26/2010 | \$2,400.00 |
| IATSE POLITICAL ACTION FUND | 10/27/2010 | \$1,000.00 |
| MALCOLM, ELLEN R. | 10/27/2010 | \$1,000.00 |
| HART, JIM | 10/28/2010 | \$2,400.00 |
| DIANA DEGETTE FOR CONGRESS | 10/29/2010 | \$1,000.00 |
| PERATIS, KATHLEEN | 10/29/2010 | \$1,000.00 |
| VISION FOR AMERICA | 10/29/2010 | \$1,000.00 |
| COCA-COLA COMPANY NONPARTISAN COMMITTEE FOR GOOD GOVERNMENT | 10/30/2010 | \$2,000.00 |
| HALL, CRAIG | 10/30/2010 | \$2,400.00 |
| HALL, KATHRYN | 10/30/2010 | \$2,400.00 |
| JOBS, OPPORTUNITIES AND EDUCATION PAC | 10/30/2010 | \$1,000.00 |
| STETSON, JANE | 10/30/2010 | \$2,400.00 |
| TRANSPORT WORKERS UNION POLITICAL CONTRIBUTIONS CO. | 10/30/2010 | \$5,000.00 |
| WOMEN'S CAMPAIGN FORUM | 10/30/2010 | \$1,500.00 |
| WOMEN'S CAMPAIGN FORUM | 10/30/2010 | \$1,500.00 |
| | TOTAL | \$46,000.00 |

Proposed Civil Money Penalty: \$5,610.00 ((9 Notices Not Filed at \$110 each) + (10% of the Overall Contributions Not Filed))



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 13, 2011

MEMORANDUM

TO: The Commission

THROUGH: Alec Palmer
Acting Staff Director

FROM: Patricia Carmona *PC*
Chief Compliance Officer

Debbie Chacona *DC*
Assistant Staff Director
Reports Analysis Division

BY: Jodi Winship/Sari Pickercell *JP*
Compliance Branch

SUBJECT: Final Determination Recommendation - Failure to File 48-Hour Notices under the Administrative Fine Program

Attached is the name of a principal campaign committee and its treasurer against which the Commission has found reason to believe (RTB) and assessed a proposed civil money penalty calculated at RTB for failure to file the appropriate 48-Hour Notices for the 2010 General Election. The Committee has paid the civil money penalty.

In accordance with 11 C.F.R. § 111.34, the Commission shall send a final determination notice to the respondent that has paid the civil money penalty.

RAD Recommendation

- (1) Make final determination that the political committee and its treasurer listed on the attached report violated 2 U.S.C. § 434(a)(6) and assess the final civil money penalty so indicated.
- (2) Send the appropriate letter.

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Federal Election Commission
Final Determination Circulation Report
48-Hour Notification Report

6/13/2011 10:33 AM

| AF# | Committee ID | Committee Name | State | Election | Candidate Name | Treasurer | Prev Violations | Notices Not Filed | LOA | RTB Date | RTB Penalty | FD Penalty | Date Paid | Amount Paid |
|------|--------------|---------------------------|-------|----------|-----------------------|--------------------|-----------------|-------------------|----------|------------|-------------|------------|------------|-------------|
| 2473 | C00462861 | KUSTER FOR CONGRESS, INC. | NH | GENERAL | KUSTER, ANN MCLANE | PAUL A. BURKETT | 0 | 9 | \$46,200 | 04/15/2011 | \$5,610 | \$5,610 | 05/18/2011 | \$5,610 |

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Final Determination Recommendation -) AF 2473
Failure to File 48-Hour Notices under the)
Administrative Fine Program: Kuster for)
Congress, Inc. and Paul A. Burkett,)
Treasurer)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 15, 2011, the Commission decided by a vote of 6-0 to take the following actions in AF 2473:

1. Find reason to believe that Kuster for Congress, Inc. and Paul A. Burkett, Treasurer, violated 2 U.S.C. § 434(a)(6) and assess the final civil money penalty of \$5,610.
2. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

June 16, 2011
Date

Shawn Woodhead Werth
Shawn Woodhead Werth
Secretary and Clerk of the Commission

11092672395



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 16, 2011

Paul A. Burkett, in official capacity as Treasurer
Kuster for Congress, Inc.
P.O. Box 1498
Concord, NH 03302

C00462861
AF#: 2473

Dear Mr. Burkett:

On April 15, 2011, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Kuster for Congress, Inc. and its treasurer violated 2 U.S.C. § 434(a) for failing to file 48-Hour Notices for contributions of \$1,000 or more, received between October 14, 2010 and October 30, 2010, totaling \$46,200. By letter dated April 18, 2011, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$5,610 in accordance with the schedule of penalties at 11 C.F.R. § 111.44.

On 5/31/2010, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on June 15, 2011 that you, in your official capacity as treasurer, and Kuster for Congress, Inc. violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$5,610 in accordance with 11 C.F.R. § 111.44 and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Sari Pickerall on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Cynthia L. Bauerly", is written over a horizontal line.

Cynthia L. Bauerly
Chair

11092672396

FOR: Kuster for Congress, Inc.

FEC ID#: C00462861

AF#: 2473

PAYMENT DUE DATE: May 25, 2011

PAYMENT AMOUNT DUE: \$5,610

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058
SEQ# 003 \$ 0000561000 BA# 1 05-16-11 20 4



11092672397

usbancorp.
First Bank Services Corporation

| | | |
|--|------------------------------------|-------------------|
| KUSTER FOR CONGRESS OPERATING ACCOUNT PO BOX 1488 CONCORD NH 03302 1488 | | 1400 |
| DATE <u>5/6/11</u> | | 54-153/114 488 |
| PAY TO THE ORDER OF | <u>Federal Election Commission</u> | \$: <u>5610</u> |
| <u>Five thousand six hundred ten & no/100</u> | | DOLLARS |
| Citizens Bank New Hampshire | | |
| FOR | <u>AF# 2473</u> | <u>RPS</u> |



FEDERAL ELECTION COMMISSION
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2473

DATE SCANNED 10-11-11

SCANNER NO. 2

SCAN OPERATOR CMC

11092672398